

DEPARTMENT OF STATE REVENUE

01970352.LOF

LETTER OF FINDINGS NUMBER: 97-0352 AGI

Individual Income Tax

Calendar Years: 1993, 1994, and 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Adjusted Gross Income – Best information audit

Authority: IC 6-3-2-2

Taxpayer protests the imposition of tax on adjusted gross income based upon best information available.

STATEMENT OF FACTS

Taxpayer is an out of state resident, registered as a retail merchant who has not filed income tax returns with Indiana from doing business in this state.

The Department assessed the taxpayer adjusted gross income tax based upon an arbitrary thirty percent (30%) Cost of Goods sold.

I. Adjusted Gross Income - Best information audit

DISCUSSION

At issue is the Department's use of an arbitrary adjusted gross income upon which to assess tax.

In making its calculations the Department utilized the taxable sales figure from the taxpayer's reported sales on its Form ST-103 and deducted an arbitrary thirty percent (30%) for cost of goods sold and expenses.

In a letter dated June 3, 1997 the taxpayer protested and itemized his expenses upon which the department advised the taxpayer by letter, dated June 27, 1997 that the department had adjusted the investigation to \$27.57 plus penalty and interest. On October 7, 1997 the department advised the taxpayer that he had three years from date of payment to file a claim for refund. In a letter dated December 10, 1997 the department advised the taxpayer that the protest would be decided on information contained in the file if no further response was forthcoming.

The department utilized the figures shown in taxpayer's protest letter upon which to adjust the investigation. All figures coincide with the amounts shown in the protest with the exception of meals which have been reduced by fifty percent (50%) in accordance with IRC Sec. 274 (n).

Taxpayer has been advised to file Form IT-40 PNR when doing business in Indiana.

FINDING

The taxpayer's protest is partially sustained. A supplemental audit was prepared on June 27, 1997.